

ports, the Secretary of Agriculture shall consult with the United States Trade Representative regarding the consistency of the provisions of the order or plan with the international obligations of the United States.

(b) Compliance with U.S. international obligations

The Secretary of Agriculture shall take all steps necessary and appropriate to ensure that any order or plan or amendment to such order or plan, and the implementation and enforcement of any order or plan or amendment to such order or plan, or program as it relates to imports is nondiscriminatory and in compliance with the international obligations of the United States, as interpreted by the United States Trade Representative.

(c) Construction

Nothing in this section shall be construed as providing for a cause of action under this section.

(Pub. L. 101-624, title XIX, §1999T, Nov. 28, 1990, 104 Stat. 3928.)

§ 2279. Outreach and assistance for socially disadvantaged farmers and ranchers

(a) Outreach and assistance

(1) Program

The Secretary of Agriculture shall carry out an outreach and technical assistance program to encourage and assist socially disadvantaged farmers and ranchers—

(A) in owning and operating farms and ranches; and

(B) in participating equitably in the full range of agricultural programs offered by the Department.

(2) Requirements

The outreach and technical assistance program under paragraph (1) shall be used exclusively—

(A) to enhance coordination of the outreach, technical assistance, and education efforts authorized under agriculture programs; and

(B) to assist the Secretary in—

(i) reaching current and prospective socially disadvantaged farmers or ranchers in a linguistically appropriate manner; and

(ii) improving the participation of those farmers and ranchers in Department programs, as reported under section 2279-1 of this title.

(3) Grants and contracts

(A) In general

The Secretary may make grants to, and enter into contracts and other agreements with, an eligible entity that has demonstrated an ability to carry out the requirements described in paragraph (2) to provide outreach and technical assistance under this subsection.

(B) Relationship to other law

The authority to carry out this section shall be in addition to any other authority provided in this or any other Act.

(C) Other projects

Notwithstanding paragraph (1), the Secretary may make grants to, and enter into contracts and other agreements with, an organization or institution that received funding under this section before January 1, 1996, to carry out a project that is similar to a project for which the organization or institution received such funding.

(D) Report

The Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, and make publicly available, an annual report that includes a list of the following:

(i) The recipients of funds made available under the program.

(ii) The activities undertaken and services provided.

(iii) The number of current and prospective socially disadvantaged farmers or ranchers served and outcomes of such service.

(iv) The problems and barriers identified by entities in trying to increase participation by current and prospective socially disadvantaged farmers or ranchers.

(4) Funding

(A) In general

Of the funds of the Commodity Credit Corporation, the Secretary shall make available to carry out this section—

(i) \$15,000,000 for fiscal year 2009; and

(ii) \$20,000,000 for each of fiscal years 2010 through 2012.

(B) Interagency funding

In addition to funds authorized to be appropriated under subparagraph (A), any agency of the Department may participate in any grant, contract, or agreement entered into under this subsection by contributing funds, if the agency determined that the objectives of the grant, contract, or agreement will further the authorized programs of the contributing agency.

(C) Limitation on use of funds for administrative expenses

Not more than 5 percent of the amounts made available under subparagraph (A) for a fiscal year may be used for expenses related to administering the program under this section.

(b) Designation of Federal personnel

(1) In general

The Secretary shall designate from existing Federal personnel resources in the county or region a qualified person who shall, in cooperation with the State cooperative extension services, implement the policies and programs established or modified in accordance with this section.

(2) Additional personnel

In counties or regions in which the number of socially disadvantaged farmers and ranchers exceeds 25 percent of the total number of

farmers and ranchers in the county or region, the Secretary shall designate additional personnel to implement the policies and programs established or modified in accordance with this section.

(c) Report to Congress

(1) In general

Not later than September 30, 1992, and every two years thereafter, the Secretary shall report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, regarding—

(A) the efforts of the Secretary to enhance participation by members of socially disadvantaged groups in agricultural programs;

(B) the specific participation goals established for each agricultural program;

(C) the results achieved for each agricultural program; and

(D) the progress of the Department towards meeting each of the purposes described in paragraph (2)(C).

(2) Contents

In addition to the information specified in paragraph (1), the report required by paragraph (1) shall include—

(A) a comparison of the participation goals and the actual participation rates of members of socially disadvantaged groups in each agricultural program;

(B) an analysis and explanation of the reasons for the success or failure of the Secretary to achieve the goals, and the overall purposes of this section;

(C) a listing, on a State-by-State and county-by-county basis, of—

(i) the amount of funds loaned to members of socially disadvantaged groups; and

(ii) the amount of funds used to guarantee loans to members of socially disadvantaged groups compared to the total amount of such guarantees;

(D) a breakdown in allocation of crop base in each program crop compared to the target participation rates established pursuant to sections 355(a)(1) and 355(c) of the Consolidated Farm and Rural Development Act [7 U.S.C. 2003(a)(1), 2003(c)], on a State-by-State and county-by-county basis; and

(E) a review and analysis of participation by members of socially disadvantaged groups, compared to participation by all others, in agricultural programs, on a State-by-State and county-by-county basis, including a survey representative of all farmers and ranchers, including socially disadvantaged farmers and ranchers, to identify reasons for participation and nonparticipation in agricultural programs.

(d) Affirmative action, appeals, and contracting review

(1) Purpose

It is the purpose of this subsection to direct the Secretary to analyze within the Department the design and implementation of affirmative action programs and policies, the appeals process for complaints of discrimina-

tion, and contracting and purchasing practices employed by the Department.

(2) Scope

The study shall include—

(A) an assessment of the successes and failures of these affirmative action programs and policies;

(B) a review of the reasons for the successes and failures described in subparagraph (A);

(C) a review of procurement, contracting, and purchasing policies of the Department, the level of participation of socially disadvantaged businesses in such activities, and the impact of those policies on the participation of members of socially disadvantaged groups in such contracting with the Department;

(D) a review of the reasons for participation or lack of participation of businesses owned by members of socially disadvantaged groups in the activities described in subparagraph (C); and

(E) a review of the appeals process for all complaints or allegations regarding acts, practices, or patterns of discrimination filed with the Department by individuals or any other entities that shall include—

(i) the number of complaints or allegations regarding acts, practices, or patterns of discrimination;

(ii) the manner in which the complaints were investigated and resolved by the Department; and

(iii) the longest, shortest, and average periods of time taken to investigate and resolve the complaints or allegations regarding acts, practices, or patterns of discrimination.

(3) Report

Not later than November 28, 1991, the Secretary shall prepare and submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report containing the information described in paragraph (2).

(e) Definitions

(1) Socially disadvantaged group

As used in this section, the term “socially disadvantaged group” means a group whose members have been subjected to racial or ethnic prejudice because of their identity as members of a group without regard to their individual qualities.

(2) Socially disadvantaged farmer or rancher

As used in this section, the term “socially disadvantaged farmer or rancher” means a farmer or rancher who is a member of a socially disadvantaged group.

(3) Agriculture programs

As used in this section, the term “agriculture programs” are those established or authorized by—

(A) the Agricultural Act of 1949 [7 U.S.C. 1421 et seq.];

(B) the Consolidated Farm and Rural Development Act [7 U.S.C. 1921 et seq.];

- (C) the Agricultural Adjustment Act of 1938 [7 U.S.C. 1281 et seq.];
- (D) the Soil Conservation Act;
- (E) the Domestic Allotment Assistance Act;
- (F) the Food Security Act of 1985; and
- (G) other such Acts as the Secretary deems appropriate.

(4) Department

The term “Department” means the Department of Agriculture.

(5) Eligible entity

The term “eligible entity” means any of the following:

- (A) Any community-based organization, network, or coalition of community-based organizations that—

- (i) has demonstrated experience in providing agricultural education or other agriculturally related services to socially disadvantaged farmers and ranchers;

- (ii) has provided to the Secretary documentary evidence of work with, and on behalf of, socially disadvantaged farmers or ranchers during the 3-year period preceding the submission of an application for assistance under subsection (a) of this section; and

- (iii) does not engage in activities prohibited under section 501(c)(3) of title 26.

- (B) An 1890 institution or 1994 institution (as defined in section 7601 of this title), including West Virginia State College.

- (C) An Indian tribal community college or an Alaska Native cooperative college.

- (D) An Hispanic-serving institution (as defined in section 3103 of this title).

- (E) Any other institution of higher education (as defined in section 1001 of title 20) that has demonstrated experience in providing agriculture education or other agriculturally related services to socially disadvantaged farmers and ranchers in a region.

- (F) An Indian tribe (as defined in section 450b of title 25) or a national tribal organization that has demonstrated experience in providing agriculture education or other agriculturally related services to socially disadvantaged farmers and ranchers in a region.

- (G) An organization or institution that received funding under subsection (a) of this section before January 1, 1996, but only with respect to projects that the Secretary considers are similar to projects previously carried out by the organization or institution under such subsection.

(6) Secretary

The term “Secretary” means the Secretary of Agriculture.

(f) Omitted

(g) Reservations

(1) Consolidated suboffice

The Secretary shall require the Farm Service Agency and Natural Resources Conservation Service, and such other offices and func-

tions the Secretary may choose to include where there has been a need demonstrated, in each county that has a reservation within its borders, to establish a consolidated suboffice at the tribal headquarters of said reservation and to staff said suboffice as needed, using existing staff, but no less than one day a week or under such other arrangement agreed to by the tribe and the Department offices.

(2) Cooperative agreements

For those reservations that are located in more than one county, the Secretary, the relevant county offices and the tribe shall enter into a cooperative agreement to provide the services required by paragraph (1) that avoids duplication of effort.

(h) Accurate documentation

The Secretary shall ensure, to the maximum extent practicable, that the Census of Agriculture and studies carried out by the Economic Research Service accurately document the number, location, and economic contributions of socially disadvantaged farmers or ranchers in agricultural production.

(Pub. L. 101-624, title XXV, § 2501, Nov. 28, 1990, 104 Stat. 4062; Pub. L. 102-237, title X, § 1003, Dec. 13, 1991, 105 Stat. 1894; Pub. L. 107-171, title X, § 10707, May 13, 2002, 116 Stat. 520; Pub. L. 110-234, title XIV, §§ 14001, 14004, 14005, May 22, 2008, 122 Stat. 1442, 1443, 1445; Pub. L. 110-246, § 4(a), title XIV, §§ 14001, 14004, 14005, June 18, 2008, 122 Stat. 1664, 2204, 2205, 2207.)

REFERENCES IN TEXT

The Agricultural Act of 1949, referred to in subsec. (e)(3)(A), is act Oct. 31, 1949, ch. 792, 63 Stat. 1051, as amended, which is classified principally to chapter 35A (§1421 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

The Consolidated Farm and Rural Development Act, referred to in subsec. (e)(3)(B), is title III of Pub. L. 87-128, Aug. 8, 1961, 75 Stat. 307, as amended, which is classified principally to chapter 50 (§1921 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1921 of this title and Tables.

The Agricultural Adjustment Act of 1938, referred to in subsec. (e)(3)(C), is act Feb. 16, 1938, ch. 30, 52 Stat. 31, as amended, which is classified principally to chapter 35 (§1281 et seq.) of this title. For complete classification of this Act to the Code, see section 1281 of this title and Tables.

The Soil Conservation Act and the Domestic Allotment Assistance Act, referred to in subsec. (e)(3)(D) and (E), respectively, probably mean the Soil Conservation and Domestic Allotment Act, act Apr. 27, 1935, ch. 85, 49 Stat. 163, as amended, which is classified generally to chapter 3B (§590a et seq.) of Title 16, Conservation. For complete classification of this Act to the Code, see section 590q of Title 16 and Tables.

The Food Security Act of 1985, referred to in subsec. (e)(3)(F), is Pub. L. 99-198, Dec. 23, 1985, 99 Stat. 1354, as amended. For complete classification of this Act to the Code, see Short Title of 1985 Amendment note set out under section 1281 of this title and Tables.

CODIFICATION

Pub. L. 110-234 and Pub. L. 110-246 made identical amendments to this section. The amendments by Pub. L. 110-234 were repealed by section 4(a) of Pub. L. 110-246.

Section is comprised of section 2501 of Pub. L. 101-624. Subsec. (f) of section 2501 of Pub. L. 101-624 amended section 2003 of this title.

AMENDMENTS

2008—Subsec. (a)(2). Pub. L. 110-246, §14004(a)(1), amended par. (2) generally. Prior to amendment, par. (2) contained provisions stating that the outreach and technical assistance program was to enhance coordination of authorized outreach, technical assistance, and education efforts and include information on, and assistance with, commodity, conservation, credit, rural, and business development programs, application and bidding procedures, farm and risk management, marketing, and other activities essential to participation in Department programs.

Subsec. (a)(3)(A). Pub. L. 110-246, §14004(a)(2)(A), substituted “entity that has demonstrated an ability to carry out the requirements described in paragraph (2) to provide outreach” for “entity to provide information”.

Subsec. (a)(3)(D). Pub. L. 110-246, §14004(a)(2)(B), added subpar. (D).

Subsec. (a)(4)(A). Pub. L. 110-246, §14004(a)(3)(A), added subpar. (A) and struck out former subpar. (A). Prior to amendment, text read as follows: “There is authorized to be appropriated to carry out this subsection \$25,000,000 for each of fiscal years 2002 through 2007.”

Subsec. (a)(4)(C). Pub. L. 110-246, §14004(a)(3)(B), added subpar. (C).

Subsec. (e)(5)(A)(ii). Pub. L. 110-246, §14004(b), which directed amendment of cl. (ii) by substituting “work with, and on behalf of, socially disadvantaged farmers or ranchers during the 3-year period” for “work with socially disadvantaged farmers or ranchers during the 2-year period”, was executed by making the substitution for “work with socially disadvantaged farmers and ranchers during the 2-year period”, to reflect the probable intent of Congress.

Subsec. (g)(1). Pub. L. 110-246, §14001, substituted “Farm Service Agency and Natural Resources Conservation Service” for “Agricultural Stabilization and Conservation Service, Soil Conservation Service, and Farmers Home Administration offices”, inserted “where there has been a need demonstrated” after “include”, and struck out at end “The tribe shall be required to provide the necessary office space if it wishes to participate in this program.”

Subsec. (h). Pub. L. 110-246, §14005, added subsec. (h). 2002—Subsec. (a). Pub. L. 107-171, §10707(b), added subsec. (a) and struck out heading and text of former subsec. (a). Text read as follows:

“(1) IN GENERAL.—The Secretary of Agriculture (hereafter referred to in this section as the ‘Secretary’) shall provide outreach and technical assistance to encourage and assist socially disadvantaged farmers and ranchers to own and operate farms and ranches and to participate in agricultural programs. This assistance should include information on application and bidding procedures, farm management, and other essential information to participate in agricultural programs.

“(2) GRANTS AND CONTRACTS.—The Secretary may make grants and enter into contracts and other agreements in the furtherance of this section with the following entities—

“(A) any community based organization that—

“(i) has demonstrated experience in providing agricultural education or other agriculturally related services to socially disadvantaged farmers and ranchers;

“(ii) provides documentary evidence of its past experience of working with socially disadvantaged farmers and ranchers during the two years preceding its application for assistance under this section; and

“(iii) does not engage in activities prohibited under section 501(c)(3) of title 26; and

“(B) 1890 Land-Grant Colleges including Tuskegee Institute, Indian tribal community colleges and Alaska native cooperative colleges, Hispanic serving post-secondary educational institutions, and other post-secondary educational institutions with demonstrated experience in providing agriculture edu-

cation or other agriculturally related services to socially disadvantaged family farmers and ranchers in their region.

“(3) FUNDING.—There are authorized to be appropriated \$10,000,000 for each fiscal year to carry out this subsection.”

Subsec. (d)(1). Pub. L. 107-171, §10707(c)(1), struck out “of Agriculture” after “analyze within the Department”.

Subsec. (e)(4) to (6). Pub. L. 107-171, §10707(a), added pars. (4) to (6).

Subsec. (g)(1). Pub. L. 107-171, §10707(c)(2), struck out “of Agriculture” after “Department”.

1991—Subsec. (a)(3). Pub. L. 102-237, §1003(1), substituted “subsection” for “section”.

Subsec. (c)(1)(C). Pub. L. 102-237, §1003(2), inserted “program” after “agricultural”.

Subsec. (d)(3). Pub. L. 102-237, §1003(3), substituted “November 28, 1991” for “1 year after the date of enactment of this Act”.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110-234 by Pub. L. 110-246 effective May 22, 2008, the date of enactment of Pub. L. 110-234, see section 4 of Pub. L. 110-246, set out as an Effective Date note under section 8701 of this title.

MINORITY FARMER ADVISORY COMMITTEE

Pub. L. 110-234, title XIV, §14008, May 22, 2008, 122 Stat. 1446, and Pub. L. 110-246, §4(a), title XIV, §14008, June 18, 2008, 122 Stat. 1664, 2208, provided that:

“(a) ESTABLISHMENT.—Not later than 18 months after the date of the enactment of this Act [June 18, 2008], the Secretary of Agriculture shall establish an advisory committee, to be known as the ‘Advisory Committee on Minority Farmers’ (in this section referred to as the ‘Committee’).

“(b) DUTIES.—The Committee shall provide advice to the Secretary on—

“(1) the implementation of section 2501 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2279);

“(2) methods of maximizing the participation of minority farmers and ranchers in Department of Agriculture programs; and

“(3) civil rights activities within the Department as such activities relate to participants in such programs.

“(c) MEMBERSHIP.—

“(1) IN GENERAL.—The Committee shall be composed of not more than 15 members, who shall be appointed by the Secretary, and shall include—

“(A) not less than four socially disadvantaged farmers or ranchers (as defined in section 2501(e)(2) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2279(e)(2)));

“(B) not less than two representatives of non-profit organizations with a history of working with minority farmers and ranchers;

“(C) not less than two civil rights professionals;

“(D) not less than two representatives of institutions of higher education with demonstrated experience working with minority farmers and ranchers; and

“(E) such other persons as the Secretary considers appropriate.

“(2) EX-OFFICIO MEMBERS.—The Secretary may appoint such employees of the Department of Agriculture as the Secretary considers appropriate to serve as ex-officio members of the Committee.”

[Pub. L. 110-234 and Pub. L. 110-246 enacted identical provisions. Pub. L. 110-234 was repealed by section 4(a) of Pub. L. 110-246, set out as a note under section 8701 of this title.]

WAIVER OF STATUTE OF LIMITATIONS

Pub. L. 105-277, div. A, §101(a) [title VII, §741], Oct. 21, 1998, 112 Stat. 2681, 2681-30, provided that:

“(a) To the extent permitted by the Constitution, any civil action to obtain relief with respect to the discrimination alleged in an eligible complaint, if commenced not later than 2 years after the date of the enactment of this Act [Oct. 21, 1998], shall not be barred by any statute of limitations.

“(b) The complainant may, in lieu of filing a civil action, seek a determination on the merits of the eligible complaint by the Department of Agriculture if such complaint was filed not later than 2 years after the date of enactment of this Act [Oct. 21, 1998]. The Department of Agriculture shall—

“(1) provide the complainant an opportunity for a hearing on the record before making that determination;

“(2) award the complainant such relief as would be afforded under the applicable statute from which the eligible complaint arose notwithstanding any statute of limitations; and

“(3) to the maximum extent practicable within 180 days after the date a determination of an eligible complaint is sought under this subsection conduct an investigation, issue a written determination and propose a resolution in accordance with this subsection.

“(c) Notwithstanding subsections (a) and (b), if an eligible claim is denied administratively, the claimant shall have at least 180 days to commence a cause of action in a Federal court of competent jurisdiction seeking a review of such denial.

“(d) The United States Court of Federal Claims and the United States District Court shall have exclusive original jurisdiction over—

“(1) any cause of action arising out of a complaint with respect to which this section waives the statute of limitations; and

“(2) any civil action for judicial review of a determination in an administrative proceeding in the Department of Agriculture under this section.

“(e) As used in this section, the term ‘eligible complaint’ means a nonemployment related complaint that was filed with the Department of Agriculture before July 1, 1997 and alleges discrimination at any time during the period beginning on January 1, 1981 and ending December 31, 1996—

“(1) in violation of the Equal Credit Opportunity Act (15 U.S.C. 1691 et seq.) in administering—

“(A) a farm ownership, farm operating, or emergency loan funded from the Agricultural Credit Insurance Program Account; or

“(B) a housing program established under title V of the Housing Act of 1949 [42 U.S.C. 1471 et seq.]; or

“(2) in the administration of a commodity program or a disaster assistance program.

“(f) This section shall apply in fiscal year 1999 and thereafter.

“(g) The standard of review for judicial review of an agency action with respect to an eligible complaint is de novo review. Chapter 5 of title 5 of the United States Code shall apply with respect to an agency action under this section with respect to an eligible complaint, without regard to section 554(a)(1) of that title.”

§ 2279-1. Transparency and accountability for socially disadvantaged farmers and ranchers

(a) Purpose

The purpose of this section is to ensure compilation and public disclosure of data to assess and hold the Department of Agriculture accountable for the nondiscriminatory participation of socially disadvantaged farmers and ranchers in programs of the Department.

(b) Definition of socially disadvantaged farmer or rancher

In this section, the term “socially disadvantaged farmer or rancher” has the meaning given the term in section 2003(e) of this title.

(c) Compilation of program participation data

(1) Annual requirement

For each county and State in the United States, the Secretary of Agriculture (referred to in this section as the “Secretary”) shall annually compile program application and participation rate data regarding socially disadvantaged farmers or ranchers by computing for each program of the Department of Agriculture that serves agricultural producers and landowners—

(A) raw numbers of applicants and participants by race, ethnicity, and gender, subject to appropriate privacy protections, as determined by the Secretary; and

(B) the application and participation rate, by race, ethnicity, and gender, as a percentage of the total participation rate of all agricultural producers and landowners.

(2) Authority to collect data

The heads of the agencies of the Department of Agriculture shall collect and transmit to the Secretary any data, including data on race, gender, and ethnicity, that the Secretary determines to be necessary to carry out paragraph (1).

(3) Report

Using the technologies and systems of the National Agricultural Statistics Service, the Secretary shall compile and present the data compiled under paragraph (1) for each program described in that paragraph in a manner that includes the raw numbers and participation rates for—

(A) the entire United States;

(B) each State; and

(C) each county in each State.

(4) Public availability of report

The Secretary shall maintain and make readily available to the public, via website and otherwise in electronic and paper form, the report described in paragraph (3).

(d) Limitations on use of data

(1) Privacy protections

In carrying out this section, the Secretary shall not disclose the names or individual data of any program participant.

(2) Authorized uses

The data under this section shall be used exclusively for the purposes described in subsection (a).

(3) Limitation

Except as otherwise provided, the data under this section shall not be used for the evaluation of individual applications for assistance.

(e) Receipt for service or denial of service

In any case in which a current or prospective producer or landowner, in person or in writing, requests from the Farm Service Agency, the Natural Resources Conservation Service, or an agency of the Rural Development Mission Area any benefit or service offered by the Department to agricultural producers or landowners and, at the time of the request, also requests a receipt, the Secretary shall issue, on the date of the re-